

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

vs.

Case No. 8:03-CR-77-T-30TBM

GHASSAN ZAYED BALLUT

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**DEFENDANT GHASSAN BALLUT'S MOTION FOR C.J.A.
FUNDS FOR AN ARABIC TRANSLATOR DURING TRIAL**

The Defendant, GHASSAN ZAYED BALLUT, by and through his undersigned counsel, pursuant to 18 U.S.C. § 3006A, hereby requests this Honorable Court to permit the Defendant to recruit and retain an Arabic-English translator for limited purposes during the course of the trial and to provide for the payment of the same Arabic-English translator pursuant to the Criminal Justice Act, and as grounds therefor states:

1. The Defendant and his undersigned counsel are mindful that considerable expense and effort have been applied to the translation from Arabic to English of a large number of telephone conversations acquired by the Government under the Foreign Intelligence Surveillance Act (FISA) and of a large number of documents discovered by the Government and that the issue of admissibility of such translations by the Government and the defendants has previously been addressed by the Court.

2. Apart from any and all issues pertaining to the admissibility, use, authenticity, and accuracy of the FISA and document translations prepared prior to trial, because of other discovery received pursuant to Rule 16 the Defendant and his undersigned counsel anticipate that from time to time during the extended course of the trial in this cause that certain oral statements

and documents in the Arabic language not translated prior to trial will be moved into evidence by either the Government or the defendants, whether in their respective cases in chief, in rebuttal, or as impeachment.

3. Presuming the admissibility of such statements and documents, the Defendant and his undersigned counsel further anticipate that disputes may arise concerning the translation into English of the statements and documents, including the accuracy of any English translation submitted as evidence.

4. As a matter of due process, the Defendant should be enabled to provide an accurate and credible alternative English translation of such statements and documents from a qualified independent source to defend against the allegations in the Superseding Indictment without the Defendant being compelled to testify in order to provide an English translation of the statements or documents in violation of the Defendant's right to remain silent under the Fifth Amendment of the United States Constitution.

5. The Court has previously determined that the Defendant is indigent and financially eligible for representation and services under the Criminal Justice Act.

6. The Defendant proposes that he be permitted to retain the services of a qualified Arabic-English translator residing within reasonable proximity to Tampa to appear in Court from time to time as the need arises to provide these translation services, based upon the Defendant's counsel's representation that the translator would be compensated pursuant to the Criminal Justice Act.

7. The proposed rate of compensation would be that currently and normally approved by the Court for translation services during judicial proceedings.

WHEREFORE, the Defendant requests this Honorable Court to authorize the Defendant's counsel to recruit and retain an Arabic-English translator for the purposes and under the conditions proposed herein.

Memorandum of Law

The Criminal Justice Act authorizes the Court to permit counsel to obtain upon request expert or other services necessary for the adequate representation of a defendant in a criminal proceeding. 18 U.S.C. § 3006A(e)(1). The Defendant submits that for adequate representation he requires the services of a qualified Arabic-English translator to be available during trial in the event that the Government or a co-defendant introduces into evidence an Arabic statement or document for which an English translation was not discovered or provided prior to trial and also introduces an English translation of the statement or document that is subject to dispute by the Defendant. Without a qualified translator, the Defendant would be unable to present evidence refuting or challenging the translation unless the Defendant waived the constitutional protections of the Fifth Amendment and testified in his own behalf. Further, the Defendant would require an independent translator to avoid the conflict which would necessarily result if the Defendant utilized a translator hired or retained by the Government or by a co-defendant for the same purpose.

The Defendant proposes that his counsel would recruit and retain a qualified Arabic-English translator who would be available to travel to the Court as required without undue delay to assist in the translation of a previously untranslated statement or document submitted as evidence at trial where that translation is disputed by the Defendant. The Defendant does not anticipate that such an incident would be a frequent scenario, but it is likely to happen given the

volume of Arabic statements and documents provided in discovery. The Defendant's counsel requests authorization by the Court to represent that the translator would be compensated pursuant to the Criminal Justice Act.

The Defendant's counsel is mindful of the Court Interpreters Act which provides for interpreters at trial. 28 U.S.C. § 1827. This statute, however, does not address the problem anticipated by the Defendant as Section 1827 allows only for the simultaneous translation for the parties of judicial proceedings instituted by the United States, not for the resolution of disputed translations of statements or documents introduced as evidence by any party. 28 U.S.C. § 1827(j) and (k). In addition, the Court Interpreters Act authorizes only the use of a single interpreter in multi-defendant cases, while here the Defendant requires the services of an independent translator when translation-related disputes arise with other parties, including other defendants.

Respectfully submitted,

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Certificate of Service

I HEREBY CERTIFY that on May 25, 2005, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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